

Special Report  
Exhibit 5:

Oklahoma DOC Policy  
OP-090124

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<b>Inmate/Offender Grievance Process</b>		ACA Standards: 2-CO-3C-01, 2-CO-4B-03, 4-4016, 4-4284, 4-4301, 4-4344M, 4-ACRS-4C-01M, 4-ACRS-6B-03, 4-ACRS-7D-09, 4-APPFS-2G-02	
<b>Joe M. Allbaugh, Director Oklahoma Department of Corrections</b>		<b>Signature on File</b>	

## **Inmate/Offender Grievance Process**

The grievance process provides a standard method by which an inmate/offender may seek formal administrative decisions or answers to issues or complaints. (2-CO-3C-01, 4-4284, 4-ACRS-4C-01M, 4-ACRS-6B-03, 4-APPFS-2C-02) Inmates/offenders are required to exhaust the grievance process prior to filing a lawsuit (42 U.S.C. § 1997 (e) and 57 O.S. § 564). This procedure will be made available to all inmates/offenders through orientation and library services.

### **I. Definition of Terms Used in This Procedure**

#### **A. Inmate/Offender Grievance**

The formal complaint by an inmate/offender using the "Inmate/Offender Grievance Report Form" (DOC 090124A, attached).

#### **B. Request to Staff**

A system of written communication between staff and inmates/offenders to resolve complaints/issues informally for issues that can then move forward in the grievance process as necessary. (4-4016)

#### **C. Inmate/Offender**

Any person sentenced or assigned to any form of supervision, custody, or control by the Oklahoma Department of Corrections (ODOC) at any prison facility, in the community, or on probation or parole status.

#### **D. Reviewing Authority**

The facility head or facility correctional health services administrator (CHSA) where the incident occurred and to whom the grievance is first submitted.

#### **E. Administrative Review Authority (ARA)**

The division of the agency serving as the director's designee, or the chief medical officer's designee, to whom the formal grievance is submitted for final appeal.

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F. Agency Staff

Any staff member employed by the Oklahoma Department of Corrections (ODOC). This designation may also include, for the purpose of this procedure, employees of a contract provider or a volunteer for the agency.

G. Verified

The act of signing a document and having it notarized by a licensed notary.

H. Name

Forms attached to this procedure requiring the inmate to provide their name may be completed using an inmate's legal name if it differs from their incarcerated name (name on their judgment and sentence). However, the inmate must include their incarcerated name in addition to their legal name.

II. Grievance Procedure Guidelines

A. Grievable Issues

1. A grievance will be used to address issues regarding conditions of confinement, actions of staff, and incidents occurring within or under the authority and control of ODOC that have personally affected the inmate/offender making the complaint and for which a remedy may be allowed by the agency or by law. (2-CO-4B-03, 4-4301)

2. Sex Offender Registration Grievances

Those offenders and persons required to register as sex offenders under Oklahoma law may file a grievance if they believe they are not required to register, or if they believe their registration level is incorrect.

- a. For those offenders under ODOC supervision on parole or probation, the procedures set forth in this procedure shall be followed by first submitting a "Request to Staff" (DOC 090124D, attached) to their supervising officer, then filing a formal grievance with the district supervisor as the reviewing authority, and an appeal may also be filed to ARA.

- b. For those persons not under ODOC supervision, a request to staff is not required, but a grievance will be filed with the Sex Offender Registration Unit as the reviewing authority and an appeal may also be filed to the ARA. The time requirements for filing grievances as set forth in this procedure shall be followed.

B. Non-grievable Issues

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1. Misconduct reports received through the agency disciplinary procedures may not be appealed through the grievance process. Misconduct reports may only be appealed through the disciplinary appeal process as referenced in OP-060125 entitled "Inmate/Offender Disciplinary Procedures."
2. Grievances shall not be submitted about matters that are in the course of litigation.
3. Grievances shall not be submitted that include requests for disciplinary action against staff.
4. Grievances shall not be submitted requesting monetary compensation.
5. Property issues at privately contracted facilities are to be resolved by the privately contracted facility and are not grievable or appealable to ARA.

C. Failure to Submit Timely Grievance

An inmate/offender will submit a grievance within the time frames in this procedure; if not, the grievance will be ruled as untimely submitted, except as provided for in Section XII. of this procedure.

D. No Mailbox Rule

There is no mailbox rule regarding submission of requests to staff or grievances and grievance appeals. The document must be received in the appropriate office within the required time frame. All time frames include weekends and holidays. When a time frame ends on a weekend or holiday, it will be extended to the next business day. Deposit in the mail will not be sufficient to meet time frames.

III. Access to the Grievance Procedure

The written grievance procedure and grievance forms will be readily available to inmate/offenders and staff throughout ODOC and in privately contracted facilities. (4-4344M) It is the inmate's/offender's responsibility to maintain copies of all relevant grievance documents for his/her record.

A. Availability of Materials/Forms

Materials and forms will be available through the law libraries, general circulation libraries, facilities, district offices and staff. Staff, or inmate/offender research assistants in the law library, may provide assistance as to the proper procedure for submitting a grievance.

B. Explanation of Process

Upon initial reception at the assessment and reception center or a

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district/sub-office and upon transfer to a facility or district/sub-office, the grievance process will be explained to inmate/offenders that will include non-English translation (oral and written) as required. Appropriate assistance for those impaired or disabled will also be provided.

C. Training

All agency staff, employees of private prisons or community contract facilities and volunteers will receive documented training in the grievance process during orientation. Employees who work at a facility or who have regular daily contact with inmates during the course of their employment will also receive documented grievance process training during in-service training.

D. Reprisals

An inmate/offender will not suffer reprisals for submitting a grievance in good faith.

1. A reprisal means any action or threat of action against anyone for using the grievance process. Actions taken in accordance with the abuse of process procedure below or discipline for false statements are not reprisals.
2. A grievance may be submitted if the inmate/offender feels any reprisal has occurred.
3. The inmate/offender will not receive a misconduct report for submitting a grievance in good faith.
4. A misconduct report may be issued if an inmate/offender has made a threat in a grievance against staff, visitors, or another inmate/offender, or if an inmate/offender has provided a falsified, forged or fraudulent document as evidence in the complaint.

E. Inmate/Offender Assistance

An inmate/offender may assist another inmate/offender at the same facility in preparing a grievance, but the complaining inmate/offender must sign the grievance and submit it to staff.

F. Submitting on Behalf of Another Person

No person may submit a grievance on behalf of another person or about an issue/complaint not directly affecting the complaining inmate/offender except in the event of an allegation of sexual abuse as outlined in Section VIII. of this procedure. (PREA 115.52 (e)(1)). As a condition of processing the grievance the facility may require that the alleged victim agree to have the grievance filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. (PREA 115.52 (e)(2))

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G. Legible

Inmate/Offender "Request to Staff" (DOC 090124D) forms and grievances submitted to staff for resolution must be legibly written or typed in blue or black ink. No pencil, highlighter or other color of ink is allowed. No drawing, decorating, doodling, or making comments in the margins of the pages is permitted.

IV. Informal Resolution

Informal resolution requires communicating with staff, including submitting a "Request to Staff," if the complaint is not resolved. The informal resolution process precedes submitting a grievance.

A. Categories for Grievances

This process must relate to one of the following categories:

1. Discrimination;
2. Classification;
3. Complaint Against Staff;
4. Conditions of Confinement;
5. Disciplinary Process;
6. Legal;
7. Medical;
8. Property/Trust Fund;
9. Records/Sentence Administration;
10. Religion; or
11. Personal Identity (including, but not limited to, gender variant clothing, hormone treatment, specific mental health treatment, separate showering, etc.).

B. Initial Attempt

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Before submitting a "Request to Staff," the inmate/offender must try to resolve the complaint by talking with the affected staff, supervising employee or other appropriate staff within three (3) days of the incident.

C. Request to Staff

If not resolved, the inmate/offender must submit a "Request to Staff" through the law library supervisor or the warden's designee, detailing the issue/incident completely but briefly.

1. The submission through the law library supervisor or designee applies to minimum and higher security facilities. At community level facilities, inmate/offenders will submit the form to the appropriate staff member.
2. The form must be specific as to the complaint, dates, places, personnel involved and how the inmate/offender was affected.
3. The "Request to Staff" must be submitted within seven (7) days of the incident, and only one issue or incident is allowed per form. The inmate/offender shall utilize only the front and back of the form. No attachments are allowed.
4. Inmates/offenders will submit the "Request to Staff" form to the law library supervisor or designee. The law library supervisor or designee will stamp the date of receipt on the original submission.
5. Upon request by the inmate/offender, one copy of the original "Request to Staff" that is submitted will be provided. All additional copies are subject to applicable fees as referenced in OP-030115 entitled "Access to Courts/Law Library."
6. The law library supervisor or designee will assign the "Request to Staff" to the appropriate staff member who will attempt to resolve the issue. Multiple "Request to Staff" submitted containing the same issue will be forwarded to the appropriate staff member for one response. The staff member assigned will respond in writing within ten (10) days of receipt to all "Request to Staff" forms being used to attempt informal resolution. On the "Request to Staff", staff will document any action taken and will cite or quote applicable agency procedures. A "Request to Staff" assigned to an appropriate staff member who is at another facility may be scanned and emailed or faxed to the law library supervisor or designee at the proper facility for response by the appropriate staff member.
7. The responding staff member will return the completed "Request to Staff" to the law library supervisor or designee at their facility. If a response is being returned by another facility, the response may be scanned and emailed or faxed to the law library supervisor or

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designee at the originating facility. The law library supervisor or designee will date stamp the receipt of the response on the "Request to Staff." The law library supervisor or designee will date and send a copy of the completed form to the inmate/offender and retain the original request and response for centralized filing.

8. Law library supervisors or designees are required to log each "Request to Staff" in and out on the "Request to Staff Log" located on Share Point if available or, if not available, on the form "Request to Staff Log" ([DOC 090124F](#), attached). If a response is not received in 30 calendar days, the law library supervisor or designee will note the non-response in the "Disposition Date" column of the "Request to Staff Log."
9. A "Request to Staff" may not be submitted about matters that are in the course of litigation or any categories that are not listed above.
10. A "Request to Staff" by an inmate regarding a pending misconduct against that inmate may only be submitted to the assigned disciplinary coordinator.
11. If there has been no response in 30 days, but no later than 60 days, of submission, the inmate may file a grievance to the reviewing authority with a copy of the "Request to Staff" attached to the grievance form. The grievance may assert only the issue of the lack of response to the "Request to Staff."
12. An Oklahoma inmate held in another state or jurisdiction pursuant to an agreement between ODOC and said jurisdiction shall submit a copy of any "Request to Staff" to the Corrections Compact Unit at the Lexington Assessment and Reception Center (LARC).

## V. Submission and Review of Formal Grievances

### A. Submitting the Grievance

If a complaint is not resolved informally, the inmate/offender may obtain and complete the "Inmate/Offender Grievance Form" ([DOC 090124A](#)) and submit the grievance form, along with the "Request to Staff" used in the informal resolution process with the response, to the appropriate reviewing authority. The "Request to Staff" may be a copy. The submitted documents may contain no alterations whatsoever. Altered documents will cause the grievance to be rejected as improperly filed. No additional attachments are allowed.

1. The inmate/offender grievance must be submitted by the inmate/offender 15 days from the date of the receipt of the response

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to the "Request to Staff." The "Request to Staff" must have been timely submitted as outlined in this procedure.

2. The reviewing authority may choose to extend the submitting period up to 60 days for good cause.
3. Under no circumstances will the grievance be accepted after 60 days of the incident or the date of the response to the "Request to Staff" unless ordered by a court, the director, chief medical officer, or their designee.
4. Only one issue or incident is allowed per grievance.
5. All medical grievances will be submitted to the facility correctional health services administrator (CHSA) for resolution.
6. Privately contracted facilities are responsible for responding to grievances on matters occurring during the inmate's incarceration at their facility. Inmates at privately contracted facilities will file grievances with the facility administrator on-site.
7. If the inmate/offender does not follow instructions as explained in this procedure and on the grievance forms, the grievance may not be answered. If allowed, the inmate/offender must properly re-submit the grievance within 10 days of notice of improper filing. Continued failure to follow instructions may result in restrictions being imposed as outlined in Section IX. of this procedure.

B. Where the Grievance is Submitted

1. Inmate/offenders must submit the grievance to the reviewing authority or facility correctional health services administrator (CHSA), whichever is appropriate, where the alleged incident occurred. Grievances concerning custody assessment, sentence administration or records must be submitted to the facility where the field file is located.
2. If the location of the alleged incident is unknown or uncertain, the inmate/offender will consult with their case manager/designated staff for assistance.
3. If the grievance involves multiple facilities at different locations, such as transfer of property, the inmate/offender will submit the grievance to one of the involved reviewing authorities who will investigate, respond to the grievance, and then forward the original grievance to the next reviewing authority for further investigation and response.
  - a. The inmate/offender will be informed of where the grievance is

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being forwarded.

- b. This process will continue until every involved reviewing authority has reviewed and responded to the grievance.
- c. The last reviewing authority will return a copy of the originally submitted paperwork to the inmate/offender along with the response.
- 4. If the grievance is filed by an Oklahoma inmate/offender held in another state or jurisdiction, the inmate/offender will submit the grievance to the administrator of Classification and Population who will serve as the reviewing authority.

#### C. Time Frames for the Review of Grievances

- 1. The reviewing authority will respond on the "Grievance Decision from Reviewing Authority" ([DOC 090124B](#), attached), and will forward the answered grievance forms to the inmate/offender within 20 days of receipt of the grievance.
- 2. If the grievance involves multiple units at different locations, the period for response will be 20 days from receipt of the grievance by each involved unit.
- 3. If the grievance cannot be answered within the 20 day period, the inmate/offender will be notified in writing, and the due date will be extended no more than an additional 20 days.
- 4. If there has been no response by the reviewing authority within 30 days, but no later than 60 days, of submission, the inmate/offender may send a grievance to the Administrative Review Authority (ARA) with evidence of submitting the grievance to the proper reviewing authority. The grievance submitted to the ARA will assert only that the inmate's/offender's grievance was not answered by the reviewing authority.

#### VI. Procedures of the Reviewing Authority

##### A. Tracking Procedures

- 1. Upon receipt of every grievance, the reviewing authority will assign a grievance number, category code, and stamp or show date of receipt on the "Inmate/Offender Grievance." This includes grievances returned unanswered for any reason.
- 2. The reviewing authority will screen the "Inmate/Offender Grievance" to determine:

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- a. Whether the grievance concerns an issue or incident involving the facility where the "Inmate/Offender Grievance" was received;
- b. Whether the issue raised is a grievable issue;
- c. Whether the "Inmate/Offender Grievance" and/or "Request to Staff" were submitted in a timely manner;
- d. Whether the proper procedures for submitting a grievance were followed;
- e. Whether the "Inmate/Offender Grievance" and/or "Request to Staff" contain more than one issue.

B. Answering the Grievance

- 1. On the "Grievance Decision from Reviewing Authority" (DOC 090124B), the reviewing authority may cite and quote the appropriate agency procedures, facility/district/unit procedures or Oklahoma Statute and may state specific findings of fact, conclusions, and actions taken by the reviewing authority to investigate and resolve the complaint.
- 2. The facility head will receive a copy of the CHSA's medical grievance decision.
- 3. A legible copy of the grievance, the decision, and all paperwork submitted will be returned to the inmate/offender. The original of all paperwork will be retained by the reviewing authority. The inmate/offender is responsible for maintaining copies and a record of their grievances.
- 4. The reviewing authority or designee will have the inmate/offender sign and date the decision acknowledging receipt.
- 5. The reviewing authority will either grant or deny relief in whole or in part, and if granted, will provide the appropriate remedy and due date.
- 6. The reviewing authority will notify the inmate/offender when a grievance is submitted improperly. The inmate/offender will be given one opportunity to correct any errors and properly resubmit within ten (10) days of the date the inmate/offender is notified of the improper submission. If the inmate/offender fails to correct the errors or properly resubmit, the grievance will not be answered and the inmate/offender will have waived/forfeited the opportunity to proceed in the grievance process.

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C. Resolution/Action in Response to a Grievance

1. Resolution/action may be taken at any reviewing level and may include any appropriate remedy as authorized by Oklahoma law.
2. Grievances rendered moot by the inmate/offender discharging will not require a response.

VII. Appeal Process and Procedure (4-4284, 4-4301)

A. Grounds for Appeal

The inmate/offender may appeal the reviewing authority's response to the grievance on the following grounds only:

1. Upon newly discovered/available evidence not considered by the reviewing authority, relevant to the issue and necessary for a proper decision. The inmate/offender must state why the evidence was not previously available and how, if considered, it may alter the decision. The inmate/offender must clearly state the newly discovered/available evidence; or
2. Probable error committed by the reviewing authority in the decision such as would be grounds for reversal. The inmate/offender must clearly state the error committed by the reviewing authority, including the specific section of procedures or statutes not followed by the reviewing authority.

B. Final Appeal to Administrative Review Authority

The inmate/offender may make a final appeal to the ARA, personal identity ARA or Medical ARA, whichever is appropriate, within 15 days of receipt of the reviewing authority's decision or any amended decisions.

1. Submission of the Grievance Appeal

- a. The inmate/offender will submit only the "Misconduct/Grievance Appeal to Administrative Review Authority" (DOC 060125V). Inmates/offenders are to maintain a copy of the appeal and related grievance paperwork for their record. The original paperwork will be retained by the reviewing authority.
- b. No additional attachments, except an affidavit if required, are allowed. Pages may not be stapled, glued, taped, reduced in size, or otherwise affixed together to count as one page.

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- c. The ARA will notify the responding facility when decisions are appealed by the inmate/offender. The "Request to Staff," "Inmate/Offender Grievance," and "Grievance Decision from Reviewing Authority" will be provided in electronic format to the ARA by designated staff within five (5) days.
- d. Each grievance inmate/offender appeal form must be submitted in a separate envelope and mailed through the U.S. Postal Service.

Grievance appeals unrelated to medical must be mailed to:

Administrative Review Authority  
P.O. Box 11400  
Oklahoma City, OK 73136-0400

Grievance appeals involving medical issues must be mailed to:

Medical Administrative Review Authority  
2901 N. Classen Blvd., Suite 200  
Oklahoma City, OK 73106

Grievance appeals involving personal identity issues must be mailed to:

Personal Identity Administrative Review Authority  
P.O. Box 11400  
Oklahoma City, OK 73136-0400

- e. The ARA will notify the inmate/offender when grievances and grievance appeals are submitted improperly. The inmate/offender will be given one opportunity to correct any errors, which must be received by the ARA within 10 days of the time the inmate/offender is notified of improper submission. If the inmate/offender fails to correct the errors or properly resubmit, the grievance or grievance appeal will not be answered and the inmate/offender will have waived/forfeited the opportunity to proceed in the grievance process.

## 2. Co-Pay

- a. Inmates/offenders will be charged \$2.00 per grievance appeal submitted to the ARA. Inmates/offenders will not be refused access to the appeal process because of their financial status. If there are not enough funds to cover this cost, the amount will be collected as soon as funds become available.
- b. After answering the grievance, the ARA will submit a copy of

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the "Misconduct/Grievance Appeal to Administrative Review Authority" to the facility trust fund officer at the facility where the inmate is currently housed, for the \$2.00 fee to be entered into the system as a "Legal Co-Pay." If a reinvestigation or an amended response to the grievance is ordered, no co-pay will be collected.

3. The ARA has 30 days from receipt of the appeal to respond. If more time is required, the inmate/offender will receive written notification, and the due date will be extended no more than an additional 30 days.
4. The ARA will retain one legible paper or digital copy of all grievance paperwork on file. A legible paper or digital copy of the response will be sent to the reviewing authority who will provide a copy of the response to the inmate/offender. Each response will be handled and recorded according to privilege mail procedures.
5. Grievances and grievance appeals which present more than one issue or which are not submitted in accordance with this procedure will not be answered.

C. Administrative Review Action

If the ARA determines that the grievance needs further investigation or review by the reviewing authority, the grievance may be returned to the reviewing authority for further investigation and for an amended response to the inmate/offender.

1. If the grievance is returned to the reviewing authority, the inmate/offender will be notified by the ARA where the grievance has been sent.
2. The reviewing authority will respond within 20 days of receipt of the returned grievance with an amended response.
3. The reviewing authority will scan a copy of the amended response to the ARA.
4. If the inmate/offender has grounds for appealing the reviewing authority's amended response, as provided in Section VII, item A. of this procedure, the inmate/offender may submit a grievance appeal within the guidelines and time frames specified in this procedure.

D. Final Ruling

1. The ruling of the ARA is final and will conclude the internal administrative process available to the inmate/offender within the

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jurisdiction of ODOC. The inmate/offender will have satisfied the exhaustion of internal administrative remedies required by Oklahoma Statute 57 O.S. § 564.

2. The agency grievance procedure does not satisfy the additional requirements for exhaustion of administrative remedies required by the Oklahoma Governmental Tort Claims Act, 51 O.S. § 151 et seq. Inmates/offenders may also be required to file a tort claim prior to filing a lawsuit.

## VIII. Emergency or Sensitive Grievances

### A. Process

Grievances may be submitted directly to the reviewing authority without informal resolution process when the complaint is of a sensitive nature or when substantial risk of personal injury, sexual assault or other irreparable harm exists. The inmate/offender must use the "Inmate/Offender Grievance" form (DOC 090124A). (PREA 115.52 (a), 115.52 (b)(3), 115.52 (c), 115.52 (f)(1))

#### 1. Emergency Grievance

A complaint of an emergency nature is one in which the complainant alleges irreparable harm or personal injury will occur and which the grievance process will be unable to address in a timely, preventive manner. The word "emergency" will be written at the top of the grievance before submission

#### 2. Sensitive Grievance

A complaint of a sensitive nature is one in which the complainant alleges misconduct by a staff member who either directly supervises the inmate/offender or is the reviewing authority where the inmate/offender is assigned. The word "sensitive" will be written at the top of the grievance before submission.

There will be no time limit to any portion of a grievance regarding an allegation of sexual abuse. (PREA 115.52 (b)(1)) Grievances of alleged incident of sexual abuse may be filed at any time, regardless of time the incident occurred. (PREA 115.52 (b)(4)). This provision does not restrict the agency's ability to assert as an affirmative defense any applicable statute of limitations in response to an inmate/offender lawsuit. (PREA 115.52 (b)(4))

3. The inmate/offender will describe the reason why they believe the grievance to be of an emergency or sensitive nature that justifies not submitting the grievance through normal procedures and attempting

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informal resolution. The grievance must include a statement specifying the personal injury or irreparable harm at risk.

- 4. The inmate/offender will forward the grievance directly to the reviewing authority that can provide immediate resolution. If the complaint involves the reviewing authority and is of a sensitive nature, the grievance may be brought directly to the ARA, whichever is appropriate. (PREA 115.52(c)(2))
- B. Upon receipt of a grievance marked "emergency" or "sensitive," the reviewing authority will have 24 hours to determine if it is in fact an emergency or sensitive grievance. If so, an expedited review will be conducted and a response provided to the inmate/offender within 48 hours of receipt, excluding weekends and holidays. (PREA 115.52(d)(1)) The inmate/offender may appeal that response as provided for in Section VII. of this procedure. The ARA will provide an expedited response to all verified emergency or sensitive grievances within 72 hours of receipt of the grievance, excluding weekends and holidays. (PREA 115.52(d)(1), 115.52(d) (2)(3)(4))
- C. Assistance for Filing a Grievance Regarding Allegations for Sexual Abuse
  - 1. Third parties, including fellow inmates/offenders, staff members, family members, attorneys, and outside advocates shall be permitted to assist inmate/offenders in filing requests for administrative remedies relating to allegations of sexual abuse and shall also be permitted to file such requests on behalf of inmates/offenders. (PREA 115.52 (e)(1))
  - 2. If a third party files such a request on behalf of an inmate/offender, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. (PREA 115.52 (e)(2))
  - 3. If the inmate/offender declines to have the request processed on his or her behalf, the agency shall document the inmate's/offender's decision. (PREA 115.52 (e)(3))
- D. Determination that a Grievance is Not Emergency or Sensitive

When the appropriate reviewing authority determines that a grievance is not of an emergency or sensitive nature, the inmate/offender will be provided written notification that the grievance is not of an emergency or sensitive nature and that the standard grievance process must be followed. (PREA 115.52 (b)(2), 115.52 (f)(2), 115.52 (g))

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E. Co-Pay

Inmates/offenders will be charged the \$2.00 legal co-pay as specified in this procedure for submission of an emergency or sensitive grievance. If relief is granted, no co-pay will be charged.

IX. Abuse of the Process

A. Determining Abuse of the Grievance Process

1. The appropriate reviewing authority may determine there is abuse or misuse of the grievance process and may restrict the inmate's/offender's ability to submit a grievance. Types of abuse, include, but are not limited to: (PREA 115.52(g))
  - a. Grievances intended to harass another;
  - b. The continual and repeated submitting of frivolous grievances (frivolous grievances are those with no basis in fact or law);
  - c. The repeated submitting of grievances or "Requests to Staff" about an issue previously addressed by staff in their written response;
  - d. Grievances about de minimis (small, trifling, no available remedy) issues;
  - e. Repetitive grievances by multiple inmates/offenders about the same issue;
  - f. An inmate/offender writing letters instead of utilizing the grievance process and failing to bring complaints by formal grievance;
  - g. Continued procedural defects, such as submitting additional pages, after having been previously warned.
2. If abuse of the process is determined, the inmate/offender will be notified in writing, citing the above listed reason or reasons the inmate/offender has been placed on grievance restriction. A copy of the determination will be placed in the inmate's/offender's field file and a copy will also be provided to the reviewing authority and the ARA. If the determination of abuse of the process is taken at the first level of review, the action is appealable to the ARA.

B. Restriction Process

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1. The grievance restriction may be imposed for a period not longer than 12 months. Further abuses are grounds for extending the restriction. An extension will not exceed 12 months from the date of notification of restriction extension.
2. For all grievances and appeals submitted during the restriction period, the inmate/offender is required to show cause as to why they should be permitted to grieve. Cause will be shown as follows:
  - a. The inmate/offender will submit a duly verified affidavit, made under penalty of discipline for lying to staff, attached to the grievance and appeal, stating that all contents of the grievance are true and correct to the best of the inmate's/offender's knowledge. The affidavit will also contain a complete, accurate, and legible list by grievance number, date, description, and disposition at each level, of all grievances previously submitted by the inmate/offender within the last 12 months. Each page of the affidavit must be legible and signed, verified and notarized at the end of the text. Copies of notaries will not be accepted.
  - b. In each case, before considering the merits of the grievance or appeal, the reviewing authority will determine whether the inmate/offender has complied with the requirements for being permitted to submit a grievance or appeal.
  - c. If the inmate/offender has not complied with all requirements for submitting a grievance or appeal, the inmate/offender will be provided written notification and the grievance or appeal will not be answered.
  - d. The grievance or appeal may proceed when the inmate/offender meets the guidelines outlined in this procedure.

#### X. Confidentiality and Use

##### A. File Maintenance and Access

1. All inmate/offender grievance records will be treated as restricted and will be maintained in a file separate from the inmate/offender field file and medical record. (4-ACRS-7D-09)
2. Access will be limited to corrections employees who need such information in the performance of their duties, such as staff members preparing responses to grievances and investigations.

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B. Attachments to Special Reports

Copies of inmate/offender "Request to Staff," grievances and/or appeals will be made an attachment to all special reports ordered by any court. If no grievance was submitted by an inmate/offender plaintiff, an affidavit attesting to that fact will be made an attachment to the special report.

XI. Monitoring of Inmate/Offender Grievances

A. Grievance Report Log

1. The reviewing authorities and CHSA's, and/or their designees, will record all submitted inmate/offender grievances and the actions taken at each level using the "Grievance Log" ([DOC 090124C](#), attached). The log will be maintained for statistical purposes at the location of origin. (4-ACRS-6B-03, 4-APPFS-2G-02)
2. The ARA will maintain electronic records of all submitted inmate/offender grievance appeals and the action taken at each level.
3. The Medical ARA may maintain electronic or manual records of all submitted inmate/offender grievance appeals and the action taken at each level.

B. Records Keeping

A copy of all grievances submitted and dispositions of those grievances will be maintained for three (3) years at each level the grievance was submitted. At the end of the three (3) year period, the material may be disposed of in accordance with [OP-020202](#) entitled "Management of Office Records."

XII. Submitting a Grievance/Appeal Out of Time

- A. If a grievance has been denied by the reviewing authority and the ARA or Medical ARA due to the grievance not being submitted in a timely manner, the inmate may make a request to submit a grievance out of time by submission of the "Request to Submit a Misconduct/Grievance Appeal Out of Time" ([DOC 060125T](#)). The grievance will not be attached to the form.
- B. The request may be submitted to the ARA or Medical ARA, whichever is appropriate, and must be received within 15 days of the date of denial of the untimely grievance or appeal by the ARA or Medical ARA.
- C. The inmate must prove by substantial evidence that he/she did not submit the grievance or appeal in a timely manner through absolutely no fault of his/her own.
- D. If the request to submit an untimely appeal is granted, the inmate will be

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directed to properly re-submit the appeal with the ARA or Medical ARA within 15 days.

**XIII. References**

OP-020202 entitled "Management of Office Records"

OP-060125 entitled "Inmate/Offender Disciplinary Procedures"

42 U.S.C. § 1997e

51 O.S. § 151 et seq.

57 O.S. § 564, § 566 et seq.

Booth v. Churner, 532 U.S. 731, 121 S.Ct. 1819 (2001)

Jernigan v. Stuchell, 304 F.3d 1030 (10<sup>th</sup> Cir. 2002)

Porter v. Nussle, 534 U.S. 516, 122 S.Ct. 983 (2002)

**XIV. Action**

The regional directors/director of Probation and Parole Services are responsible for compliance with this procedure.

The General Counsel is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the agency director.

This procedure is effective as indicated.

Replaced: Operations Memorandum No. OP-090124 entitled "Inmate/Offender Grievance Process" dated July 19, 2016

Deleted: OP-090124 Revision-01 dated September 15, 2016

Distribution: Policy and Operations Manual  
Agency Website

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<u>Referenced Forms</u>	<u>Title</u>	<u>Location</u>
<u>DOC 060125T</u>	"Request to Submit a Misconduct/Grievance Appeal Out of Time"	<u>OP-060125</u>
<u>DOC060125V</u>	"Misconduct/Grievances Appeal To Administrative Review Authority"	<u>OP-060125</u>
<u>DOC 090124A</u>	"Inmate/Offender Grievance"	Attached
<u>DOC 090124B</u>	"Grievance Decision from Reviewing Authority"	Attached
<u>DOC 090124C</u>	"Grievance Log"	Attached
<u>DOC 090124D</u>	"Request to Staff"	Attached
<u>DOC 090124F</u>	"Request to Staff Log"	Attached